

**State Program Standing Committee
for Adult Mental Health**

Monday, October 10, 2016

MINUTES

Location of Meeting: Beech Conference Room, NOB 2 North, Waterbury

Members Present: Clare Munat, Malaika Puffer, Uli Schygulla, Thelma Stoudt, Marla Simpson, and Dan Towle.

DMH Staff: Emma Harrigan, Karen Barber, Mourning Fox, and Jennifer Rowell

Facilitator: Dan Towle

Dan reviewed the agenda. Uli volunteered to be timekeeper. After introductions, the Standing Committee members reviewed the minutes of the meeting on September 12, 2016. A motion was made to accept the minutes as submitted, it was seconded. The motion passed unanimously.

Departmental Update: Mourning Fox, Karen Barber and Emma Harrigan

Fox is staying with DMH. Fox let the Standing Committee members know that he has decided to stay on with the department. He stated that he enjoys the work that he does, the people he works with, and wants to keep doing it. Clare stated that she is happy he is here.

VPCH – EHR. The Electronic Health Record went live last week at VPCH. As with any new system there were some hiccups and staff are still learning the system. It is creating some anxiety for staff to learn the new system and DMH is trying to provide the extra support needed (i.e. IT, etc.). Now, it is a matter of keeping it up to date.

QMHP Training for DOC. Fox did a training two weeks ago for the DOC staff of Centurion of Vermont. Once they are certified, this will allow for the staff to do involuntary hospitalizations as needed as they can do the assessments for Emergency Exams. This is much more effective to be able to have someone screened and presented for admission to a number of hospitals, in hopes to expedite the process. Clare asked the question whose job it was to oversee the delivery of the mental health system in Corrections. DOC has a contract with Centurion, which provides the mental health services. Clare asked if there were any reports on this. DMH can't speak to the exact reporting as they are contracted through DOC. It was asked if DMH should take over mental health services in the Correctional system. Fox stated that there had been some discussion around that within AHS at times and how DMH could support services being provided by the contractor. Karen stated that statutorily, DOC is responsible as they are in their custody.

RFP for Secure Residential. Fox stated that the RFP for the SRR should be coming out soon, probably by the end of the month. It was delayed due to the fact that we wanted to make sure it was open to a broad spectrum of respondents, i.e., private companies as well. In order to do that, we needed to notify the VSEA that we will be accepting proposals that could represent a privatization of a secure residential. Malaika asked if DMH was the ones asking for a larger RFP. It was due to legislature that it will be put out for bid.

Pathways Designation. Emma let the Standing Committee members know that Commissioner Reed took their recommendation and designated the Pathways Housing First Program. Hilary Melton, Executive Director of Pathways, wrote an email thanking the Commissioner and the Standing Committee, and Emma shared this with the Standing Committee members.

Homeless Resources. Dan had a question on behalf of someone in the community, if DMH had any resources for homelessness. Emma stated that DMH funds 140 residential beds and gets about 130 vouchers through the Housing Subsidy Plus Care funding, which are almost all likely occupied. DMH does have expectations through CRT that housing support is provided. Emma is going to connect with Brian Smith and have him come in to talk about Housing. Marla stated that the Barre Capstone Community Housing had received some money and is hoping to get more vouchers for Chittenden and Washington County.

Duty to Warn – Kuligowski Decision. Karen stated that the Supreme Court had withdrawn their past order and issued a new amended one which attempted to narrow and clarify their decision in regards to the training, education and information mental health care professionals are now required to share with “caretakers” and those in the “zone of danger.” DMH is still unclear, despite the amended decision, as to what exactly this duty requires. DMH remains concerned about the impact of this decision and is seeing higher numbers of people waiting in the Emergency Departments and more difficulty getting patients released from inpatient beds because providers are concerned about this new, unknown potential liability. The other major concern of AHS and DMH is around how the amended order failed to really address HIPAA concerns.

There is a group of hospital counsels, DA counsels, and advocates that are getting together to talk about this and what they may want to propose legislatively at the end of the month. Karen is going to go and listen and hear what others are thinking and provide input if helpful.

Clare asked that if a couple of new people were on the Supreme Court, would they reconsider. Karen stated that it is a binding decision. Clare asked how it becomes unbound. Karen stated that through legislature or if another case with similar facts rose up too and the Court decided to modify the duty requirements.

Malaika stated that it seems unfair (people being held longer) to affect larger amounts of people over what was an isolated incident. Karen stated that for providers there is a concern about potential unknown liability and therefore they need to carefully consider when thinking about discharging a patient who may be caretakers and people in the “zone of danger,” what

information needs to be provided, and to whom. Malaika wondered what kinds of action would be helpful, i.e. demonstrations, etc. Karen stated it would be helpful to contact your Legislators to address this. DRVT and Legal Aid are also concerned. Fox stated he wasn't sure about demonstrations; it is a good question though.

Clare would like for the Standing Committee to work on a perfect letter that they can send to the Legislature to outline the problems, provide outcomes and solutions with the Kuligoski decision. Emma encouraged the Standing Committee to work with Representative Donahue and DRVT to look over the facts of the letter.

Karen provided a link to the Kuligoski Decision:

<https://www.vermontjudiciary.org/LC/Supreme%20Court%20Published%20Decisions/op14-396.Amended.pdf>

Home- and Community-Based Services (HCBS) Systematic Assessment – CRT. Emma stated that she is still learning a lot about this topic. She might not be able to answer all of your questions, but can research answers.

CRT was the State's first Medicaid Managed program in 1999. On January 10, 2014, CMS issued final regulations regarding HCBS. What does this mean for DMH? Vermont does not have any of these waivers (1915 (c), 1915(k) or 1915(i), but most other states do. We are not sure where we stand with CMS but we do have to examine the CRT program for potential added-value by implementing HCBS requirements. The final rule requires that all home and community-based settings meet certain qualifications and it also includes additional requirements for provider-owned or controlled home and community-based residential settings.

To which settings does HCBS apply? It applies to Provider-Controlled settings, i.e. Intensive residential programs/group residential programs, Shared living home provider arrangements and staffed living arrangements. Marla asked the question what if someone wanted a supervised assisted living setting, how would they go about securing that. Emma wasn't sure. Uli asked what some examples were of IRR's. Emma stated: Meadowview, Hilltop, Second Spring, Soteria House and Maplewood. MTCR is ultimately a TCR which works towards discharge of levels of care. Everyone at MTCR is on an ONH, but not placed against their will. Malaika stated that if MTCR is going to keep being what it is, it looks like it would not apply due to the lockable setting as this setting does not seem to apply for being free of coercion.

The contractor came through and did the comprehensive quality strategic systematic assessment. Now we have to come up with a work plan.

Emma explained the crosswalk that was developed. The first column is called **42 CFR HCBS Requirement, HCBS Setting Requirements**, the second column is **CRT Policy, Rules and Guidelines** (where these apply), the third column is called **VT Statutory of Policy Guidance**,

then **Policy Alignment** with **Shared Living, Staffed Living or Group Living** where it shows if it is in alignment or N/A.

In looking at #9 requirement – **Individuals sharing units have a choice of roommates in that setting**; Thelma stated that they have resident settings where individuals are sharing a room but don't have a choice in their roommates.

In the requirement where you are allowed to switch care management, Thelma stated there have been instances where people tell her this does not happen and people she knows went through hell trying to get this done. Emma stated that it sounds like it could be a grieved instance.

In requirement #1 – **Includes people chosen by the individual and led by person or legal rep when possible**. Malaika asked if there was any definition of what it means to be led by a person and Emma will try to get more guidance.

Public Comment

None.

Membership Issue/Discussion: Marla stated that she had sent an email out to the Standing Committee members with a template that they could send to local papers, etc., and did anyone do that yet. No one had as of yet. She did submit it to the Advisory and it should be in the next issue. The Standing Committee is looking for members i.e. providers or a family member. Renee Rose's name from NKHS was mentioned and Thelma stated she would get ahold of Renee.

Items for November Agenda

- ✓ Review of agenda and time slots assigned, introductions, approval of notes for meeting of October 10, appointment of a timekeeper
- ✓ Departmental update
- ✓ Kuligoski Decision – 15 to 20 minutes
- ✓ Public comment
- ✓ Membership issues
- ✓ December agenda items

Items for Future Agenda

- ✓ Brian Smith: updates on housing (issues, developments, etc.)
- ✓ Kristin Chandler and Cindy Taylor Patch: Law enforcement/mental health provider's collaboration
- ✓ J Batra: changes to order of nonhospitalization, also new Crisis Text Line

The Standing Committee made a motion to adjourn the meeting early. Members voted unanimously in favor. The meeting adjourned at 2:23 p.m.